



Thomas E. Schiff
Executive Vice President / General Counsel

July 27, 2012

Via: Email and Federal Express

California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
Attn: Mr. Al Padilla

Re: CDP 5-10-076 (Bay Club Marina)

Dear Mr. Padilla:

Enclosed please find the above-referenced Coastal Development Permit signed by the Permittee NF Marina, LP.

Very Truly Yours,

Thomas E. Schiff,
Executive Vice President and
General Counsel of
Decron Properties Corp., agent for
NF Marina, LP

cc (w/ encl., by email):
Mr. David J. Nagel
Mr. Randy Sovereign
Ms. Charlotte Miyamoto
Mr. Jack Malone
Beth Gordie, Esq.

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

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Date: July 23, 2012
Permit No: 5-10-076

**COASTAL DEVELOPMENT PERMIT**

On December 15, 2010, the California Coastal Commission granted to **County of Los Angeles, Department of Beaches and Harbors and NF Marina, LP**, Coastal Development Permit 5-10-076, subject to the attached Standard and Special Conditions, for development consisting of: **Demolish an existing 230 boat slip marina, including removal of 117 pilings, and construct a 207 boat slip marina consisting of pre-manufactured concrete dock system, 126 concrete pilings, with an in-slip sewage pumpout for all boats and utility hookups.** More specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at: **14015 & 14035 Tahiti Way (Parcel 8T), Marina Del Rey (Los Angeles County) 4224-002-900.**

Issued on behalf of the California Coastal Commission on July 23, 2012.

CHARLES LESTER
Executive Director

By: 
Title: Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

NF MARINA, LP

July 27, 2012

Date

BY: 

Signature of Permittee

Please sign and return one copy of this form to the Commission office at the above address.

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STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. LOW COST BOATING PAYMENT

PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the applicant or successor in interest shall agree to provide:

a. A payment to the County, or a non-profit organization acceptable to the Executive Director of the Coastal Commission, to be used for scholarships for youths to participate in boating programs, for purchase of sail training vessels, funding for transportation to bring youths to the Harbor, and for other similar programs to enhance lower cost boating opportunities. Such programs may include, but are not limited to the County's Water Awareness, Training, Education and Recreation (W.A.T.E.R.) Youth Program.

b. The payment shall be the equivalent financial value of one 30-foot boat slip (based upon the listed per-foot annual rental rate posted at the marina on July 1 of each year for 30-foot slips) for each 100 slips greater than 30 feet in length that are constructed within the marina subject to this permit. For each slip above 100 slips that are greater than 30 foot in length the payment shall be prorated based on the rental rate of a 30-foot slip. The payment to the County will commence upon completion of the marina redevelopment construction and continue annually,

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throughout the life of the project.

c. The Department of Beaches and Harbors shall provide (or shall cause the appropriate non-profit organization to provide) an annual report, for the review and approval of the Executive Director of the Coastal Commission, detailing the payments that have been collected, the lower cost boating programs developed and operated, and the number of people participating in such programs. The report shall be provided annually, no later than January 15th of each year for the proceeding calendar year.

2. BOATER PARKING

The number of vehicle parking spaces provided for boater parking shall be provided at a ratio of .675 or greater (parking spaces to slips), based on the total number of boat slips approved by this permit. Any future change to the number of boater parking spaces will require an amendment to this permit.

3. WATER QUALITY MANAGEMENT PLAN

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a detailed Water Quality/Best Management Practices (BMPs) Program for controlling adverse impacts to water quality related to long-term water-borne berthing of vessels in the marina. The plan shall be prepared by a qualified professional with expertise in the control of water quality impacts related to marinas.

1. The plan shall demonstrate that long-term water-borne berthing of vessels in the marina shall be managed in a manner which protects water quality and that persons using the marina are made aware of the rules related to boat maintenance and use. To the extent to which physical features or objects (trash containers, recycling bins) are required in the plan, an attached site plan shall show the location where these features or objects will be installed.
2. The plan shall include, at a minimum, the following components or measures:
 - (a) Boat Cleaning Management Measures:
 1. The marina shall prohibit in-water boat hull washing which does not occur by hand;
 2. The marina shall prohibit in-the-water hull scraping or any process that occurs under water which results in the removal of paint from boat hulls;
 3. The marina shall ensure that marina tenants, when washing boats, utilize detergents and cleaning components that are phosphate-free and bio-degradable. Amounts used shall be minimized; and

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4. The marina shall prohibit the use of detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.
- (b) Implementation of a solid waste reduction and recycling program including, at a minimum, the following Solid Waste Management Measures:
1. Trash receptacles shall be provided at the entrances to all docks;
 2. Containers for recyclables shall be provided and sited so that they are convenient for boaters (i.e. close to the dock); and
 3. All trash and separate containers for recyclables, oil wastes, fish wastes, etc. shall be clearly marked, have the capacity to handle all waste streams, and be sited so that they are convenient for boaters (i.e. close to the dock).
 4. All solid waste, including sewage, shall be properly disposed of only at appropriately designated facilities.
- (c) Implementation of a liquid material control program which provides and maintains appropriate storage, transfer, containment and disposal facilities for liquid materials commonly used in boat maintenance including, at a minimum, the following Liquid Waste Management Measures:
1. The marina shall provide a secure location to store hazardous wastes, including old gasoline or gasoline with water, oil absorbent materials, used oil, oil filters, antifreeze, lead acid batteries, paints, solvents and other hazardous wastes. Storage areas shall be impervious to stored materials and shall comply with hazardous waste storage and disposal requirements of the local certified uniform permitting agency;
 2. Containers for anti-freeze, lead acid batteries, used oil and used oil filters which will be collected separately for recycling shall be provided by the marina;
 3. Signage shall be placed on all regular trash containers to indicate that hazardous wastes may not be disposed of in the container. The containers shall notify boaters as to how to dispose of hazardous wastes and where to recycle certain recyclable wastes; and
 4. The marina shall maintain an adequate supply of absorbent pads for use by marina tenants and lessees for the cleaning of minor spills.

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(d) Petroleum Control Management Measures:

1. The marina shall provide a service that reduces oily discharges from in-board engines, either a bilge pump-out facility (with an oil-water separation device) or the marina shall promote the use of oil-absorbing materials in the bilge areas or engine compartments of all boats with inboard engines. When distributing oil absorbents to boaters, the marina shall provide adequate safety warnings as to the safe use and handling of flammable materials and methods to prevent fouling the bilge pump. Oil absorbent materials should be examined at least once a year and replaced as necessary. The marina shall recycle the materials, if possible, or dispose of them in accordance with hazardous waste disposal regulations. The marina environmental policies shall encourage boaters to regularly inspect and maintain engines, lines and hoses in order to prevent oil and fuel spills. These policies shall encourage boaters to use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas. The use of soaps that can be discharged by bilge pumps shall be discouraged.

(e) Public Education Measures:

In addition to these specific components outlined in Special Condition 3.2.(a) through (d) above, the BMP program shall also include enforcement provisions, including eviction from the marina and notice of possible civil or criminal fines and/or penalties, to assure compliance with this program by all marina tenants. The marina shall provide information about all of the measures in the BMP program through a combination of signage, tenant bill inserts and distribution of the BMP program to new tenants and each year to repeat tenants. The program shall be posted at the dock master's office and at all dock entrances, and be included and attached to all slip lease agreements.

4. OPERATION, MAINTENANCE, AND REPAIR OF OVER-WATER SEWER LINES

The applicant shall submit, for the review and approval of the Executive Director, an operation and maintenance plan for over-water sewer lines. The over-water sewer lines include all pipes from sewage pump-out facilities, and any other pipe which leads to a sanitary sewer. The over-water sewer lines shall be visually inspected at least once per month and dye- or pressure-tested at least once every six months. All leaks shall be repaired immediately upon discovery. If the applicant determines that a more stringent procedure is necessary to ensure protection of coastal water quality, then the applicant shall update the operation and maintenance plan.

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The permittee shall undertake development and ongoing maintenance and operation in accordance with the approved final plan and other requirements. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. PILING CONSTRUCTION

The applicant shall use the least damaging alternative for the construction of pilings and any other activity that will disturb benthic sediments. The applicant shall limit, to the greatest extent practicable, the suspension of benthic sediments into the water column. Construction of pilings shall comply with the requirements of Special Condition No. 9 relative to timing.

6. CONSTRUCTION RESPONSIBILITIES AND DEBRIS REMOVAL

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to inundation or dispersion in the waters of the marina;
- (b) Any and all debris resulting from construction activities shall be removed from the site within 10 days of completion of construction;
- (c) No machinery or construction materials not essential for project improvements shall be allowed at any time in the intertidal zone;
- (d) If turbid conditions are generated during construction, a silt curtain shall be utilized to control turbidity;
- (e) Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day;
- (f) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss; and
- (g) Reasonable and prudent measures shall be taken to prevent all discharge of fuel or oily waste from heavy machinery, pile drivers or construction equipment or power tools into the waters of the Marina del Rey. The applicant and the applicant's contractors shall have adequate equipment available to contain any such spill immediately.

7. LOCATION OF DEBRIS DISPOSAL SITE

PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the demolition and construction debris resulting from the proposed project. Disposal shall occur at the approved disposal site. If the

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disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

8. U.S. ARMY CORPS OF ENGINEERS APPROVAL

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director a copy of a permit issued by U.S. Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the U.S. Army Corps of Engineers. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

9. TIMING OF PROJECT

In order to reduce impacts on the California least tern during nesting and foraging season, no pile driving activity that may generate noise or turbidity shall occur during the period commencing April 1 and ending September 1 of any year.

10. FUTURE DEVELOPMENT

This Coastal Development Permit 5-10-076 is only for the development expressly described and conditioned herein. The permittee shall undertake development in accordance with the approved coastal development permit. Any proposed changes to the development, including any change to the sequence of construction, shall be reported to the Executive Director. No changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

11. CAULERPA TAXIFOLIA PRE-CONSTRUCTION SURVEY

A. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.

B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.

C. Within five (5) business days of completion of the survey, the applicant shall submit the survey: for the review and approval of the Executive Director; and

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1. to the Surveillance Subcommittee to the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).

D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

12. ASSUMPTION OF RISK, WAIVER OF LIABILITY, AND INDEMNITY AGREEMENT AND LEASE RESTRICTION APPLICABLE TO APPLICANT-LESSEE

A. By acceptance of this permit, the applicant/lessee, NF Marina LP, LP, on behalf of (1) itself; (2) its successors and assigns and (3) any other holder of the possessory interest in the development authorized by this permit, acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the restrictions identified in (i) through (v).

- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant, NF Marina LP, shall execute and record a lease restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The lease restriction shall include a legal description of the applicant's entire parcel (No. 8T). The lease restriction shall run with the land, binding all successors and assigns. This lease restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

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13. ASSUMPTION OF RISK, WAIVER OF LIABILITY, AND INDEMNITY AGREEMENT APPLICABLE TO APPLICANT-LESSOR

A. By acceptance of this permit, the applicant-lessor Los Angeles County Department of Beaches and Harbors acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant-lessor and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to include a provision in any subsequent lease of such property requiring the lessee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the terms of subsection A of the prior condition.

B. **PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT**, the landowner shall execute and record against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant (lessor) shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

ENTER SPECIAL CONDITIONS OR ENTER NONE.
NOTE: THIS IS NOT A FORM FIELD